

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Criminal Justice Committee

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BILL: CS/SB 688

INTRODUCER: Criminal Justice Committee and Senator Bennett

SUBJECT: Custody of Criminal Defendants

DATE: February 15, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cannon	CJ	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	JA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill clarifies that when an inmate in a state prison is arrested for a criminal act, unless a court orders otherwise, the Department of Corrections will retain custody over that person until the immediate charge is disposed of or until the defendant's underlying sentence is completed, whichever occurs first. If the prisoner is required to appear in court then existing law will apply for the prisoner's custody and transportation.

This bill amends section 907.04(1), Florida Statutes. This bill creates section 907.04(2), Florida Statutes.

## II. Present Situation:

If an inmate in a state institution is arrested for a criminal act, a law enforcement officer outside of the prison, generally the sheriff in the county where the alleged act occurred, goes to the prison and arrests the prisoner. The prisoner is then transported to the county facility for arrest proceedings. The inmate is later returned to the prison when he or she is no longer needed in court or an appearance is not scheduled in the near future. When the inmate is required to appear in court, the sheriff returns to the prison, assumes temporary custody of the inmate and returns him or her to the county facility.

In 2003 three inmates from Charlotte Correctional Institution were arrested for murdering Correctional Officer Darla Lathrem and another inmate while attempting to escape from the prison. Each inmate was serving a life sentence at the time of the murders and had a violent criminal history. After the murder but before being indicted, the inmates were transported to Florida State Prison in Starke, a maximum security prison. After the inmates were indicted for

capital murder and escape one of the defense attorneys moved to have the defendants transferred to Charlotte County jail to await trial, pursuant to s. 907.04, F.S.

The trial court interpreted s. 907.04, F.S., as mandating that the defendants should be held in the custody of the Charlotte County Sheriff in the county jail until disposition of the charges. The state attorney and sheriff objected. The defendants are currently housed in the Charlotte county jail and have been there for many months.

Some prosecutors and members of the law enforcement community are concerned that a mandate that state prisoners must be housed in a county jail pending the resolution of new or additional charges could present a financial hardship and security risk on some small facilities. It would seem that the proper placement of those defendants would be in the state facilities where they had been lodged originally.

### **III. Effect of Proposed Changes:**

This bill clarifies that courts are authorized to order inmates who are in the custody of the Department of Corrections at the time of an arrest to remain in the department's custody. Unless otherwise ordered by the court, the defendant is to remain in the custody of the department until the pending charge is disposed of or until the underlying sentence expires, whichever occurs first.

If the inmate is required to appear in court then s. 944.17(8), F.S., will apply. That section provides that the court will issue an order for the sheriff or chief correctional officer to assume temporary custody of the defendant and transport him or her to the county jail for an appearance. Before assuming temporary custody of the defendant the law enforcement officer or his or her representative must present a copy of the court order to the officers of the facility where the defendant is housed.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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